Chapter 774

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Citizens' Utility Board

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774.010 Definitions. As used in this chapter, except as otherwise specifically provided or unless the context requires otherwise:

(1) "Board" means the Citizens' Utility Board of Governors.

(2) "Consumer" or "utility consumer" means any natural person 18 years of age or older who is a resident of the State of Oregon.

(3) "District" means an electoral district for members of the Citizens' Utility Board of Governors.

(4) "Member" means a member of the Citizens' Utility Board.

(5) "Utility" means any utility regulated by the Public Utility Commission pursuant to ORS chapters 757 and 759, which furnishes electric, telephone, gas or heating service. However, "utility" does not include any municipality, cooperative, or people's utility district. [1985 c.1 §2; 1987 c.447 §102]

774.020 Policy. The people of the State of Oregon hereby find that utility consumers need an effective advocate to assure that public policies affecting the quality and price of utility services reflect their needs and interests, that utility consumers have the right to form an organization which will represent their interests before legislative, administrative and judicial bodies, and that utility consumers need a convenient manner of contributing to the funding of such an organization so that it can advocate forcefully and vigorously on their behalf concerning all matters of public policy affecting their health, welfare and economic well-being. [1985 c.1 §1]

774.030 Citizens' Utility Board; powers. (1) The Citizens' Utility Board is hereby created as an independent nonprofit public corporation and is authorized to carry out the provisions of this chapter.

(2) The Citizens' Utility Board has perpetual succession and it may sue and be sued, and may in its own name purchase and dispose of any interest in real and personal property, and shall have such other powers as are granted to corporations by ORS 65.077. No part of its net earnings shall inure to the benefit of any individual or member of the Citizens' Utility Board.

(3) The Citizens' Utility Board shall have all rights and powers necessary to represent and protect the interests of utility consumers, including but not limited to the following powers:

(a) To conduct, fund or contract for research, studies, plans, investigations, demonstration projects and surveys.

(b) To represent the interests of utility consumers before legislative, administrative and judicial bodies.

(c) To accept grants, contributions and appropriations from any source, and to contract for services.

(d) To adopt and modify bylaws governing the activities of the Citizens' Utility Board. [1985 c.1 §3; 1989 c.1010 §179]

774.040 Membership on board. (1) All consumers are eligible for membership in the Citizens' Utility Board. A consumer shall become a member of the Citizens' Utility Board upon contribution of at least $5 but not more than $100 per year to the Citizens' Utility Board. Each member shall be entitled to cast one vote for the election of the board. The board shall establish a method whereby economically disadvantaged individuals may become members of the Citizens' Utility Board without full payment of the yearly contribution.

(2) Each year the Citizens' Utility Board shall cause to be prepared, by a certified public accountant authorized to do business in this state, an audit of its financial affairs. The audit is a public record subject to inspection in the manner provided in ORS 192.410 to 192.505. [1985 c.1 §9]

774.060 Board of Governors; duties; executive committee. The Citizens' Utility Board of Governors shall manage the affairs of the Citizens' Utility Board. The board may delegate to an executive committee composed of not fewer than five members of the board the authority as would be allowed by ORS 65.354. [1985 c.1 §4; 1989 c.1010 §180]

774.070 Election of board; term; qualifications; statement of financial interest; disqualification of candidate; recall; vacancies. (1) The Citizens' Utility Board of Governors shall be comprised of three persons elected from each congressional district described in ORS 188.130 by a majority of the votes cast by members residing in that district. The election shall be conducted by mail ballot in such manner as the Citizens' Utility Board of Governors may prescribe.

(2) The term of office of a member of the Citizens' Utility Board of Governors is four years. No person may serve more than two consecutive terms on the Citizens' Utility Board of Governors.

(3) Each candidate and each member of the Citizens' Utility Board of Governors must be a member of the Citizens' Utility Board and must be a resident of the district from which the candidate seeks to be or is elected.

(4) At least 45 days before an election each candidate shall file with the Citizens'

Utility Board of Governors a statement of financial interests, which shall contain the information in such form as the Citizens' Utility Board of Governors shall determine. Each candidate shall maintain a complete record of contributions received and expenditures made with regard to an election campaign. Each candidate shall make the records available for public inspection at such reasonable times as the Citizens' Utility Board of Governors considers appropriate.

(5) No member who is employed by a utility shall be eligible for appointment or election to the Citizens' Utility Board of Governors, and no member of the Citizens' Utility Board of Governors who obtains employment by a utility may maintain a position on the Citizens' Utility Board of Governors. While on the board, no director elected under this section may hold elective public office, be a candidate for any elective public office, or be a state public official. No person who owns or controls, either singly or in combination with any immediate family member, utility stocks or bonds of a total value in excess of $3,000 is eligible to serve as an elected member of the Citizens' Utility Board of Governors.

(6) The Citizens' Utility Board of Governors may disqualify any candidate or member of the Citizens' Utility Board of Governors for any violation of this chapter or of the bylaws of the Citizens' Utility Board.

(7) Upon petition signed by 20 percent of the members in a district for the recall of a member of the Citizens' Utility Board of Governors elected from the district, the Citizens' Utility Board of Governors shall mail ballots to each member in the district, submitting the question whether the member of the Citizens' Utility Board of Governors shall be recalled. If a majority of the members voting at the election vote in favor of the recall, then the member of the Citizens' Utility Board of Governors shall be recalled. Elections and recall proceedings shall be conducted in a manner as the Citizens' Utility Board of Governors may prescribe. Ballots for all election and recall proceedings shall be counted at a regular meeting of the Citizens' Utility Board of Governors.

(8) The remaining members of the Citizens' Utility Board of Governors shall have the power to fill vacancies on the Citizens' Utility Board of Governors. [1985 c.1 §6]

774.110 Meetings. All meetings of the board shall be open to the public, except under the same circumstances in which a public agency would be allowed to hold executive meetings under ORS 192.660. [1985 c.1 §8]

774.120 Inclusion of information in utility billings; frequency; notice; duty of utility to forward board mail. (1) Upon request by the Citizens' Utility Board pursuant to this section, each utility shall include in billings to a utility consumer materials prepared and furnished by the Citizens' Utility Board, not exceeding in folded size the dimensions of the envelope customarily used by such utility to send billings to its customers.

(2) The Citizens' Utility Board shall not intentionally make any false material statement in any material submitted to a utility for inclusion with a billing. If the utility believes that the Citizens' Utility Board has intentionally made false material statements in an enclosure, it may file a complaint with the Public Utility Commission of Oregon within five days of receipt. The Public Utility Commission of Oregon must review the complaint within 10 days, and if the commission determines that the Citizens' Utility Board has intentionally made false material statements, the commission shall give the Citizens' Utility Board of Governors written notification that specifies any false material statements made and the reasons why the commission determines the statements to be false.

(3) No utility shall be required to enclose Citizens' Utility Board material with a billing more than six times in any calendar year.

(4) The Citizens' Utility Board shall notify a utility of its intention to include under the provisions of this chapter any material in any specified periodic billing or billings not fewer than 30 calendar days prior to the mailing of the periodic billings and shall supply the utility with the material not fewer than 20 calendar days prior to the mailing of the periodic billings.

(5) All material submitted by the Citizens' Utility Board for inclusion in a utility billing must include the return address of the Citizens' Utility Board. A utility is not required to deliver or forward to the Citizens' Utility Board material intended for the Citizens' Utility Board mistakenly sent to the utility. However, a utility shall retain such materials for a period of 60 days from the date of receipt. The utility shall notify the Citizens' Utility Board that such materials have been received and make these materials available to the Citizens' Utility Board on demand. [1985 c.1 §10]

774.130 Mailing costs; reimbursement. (1) The Citizens' Utility Board shall not be required to pay any postage charges for materials submitted by the Citizens' Utility Board for inclusion in a utility billing if such materials weigh four-tenths of one ounce

avoirdupois or less. If the materials submitted weigh over four-tenths of one ounce avoirdupois, then the Citizens' Utility Board shall reimburse the utility for a portion of the postage costs which is equal to that portion of the Citizens' Utility Board material over four-tenths of one ounce avoirdupois in proportion to the total weight of the billing. In addition to postage costs, the Citizens' Utility Board shall reimburse such other reasonable costs, as determined by the Public Utility Commission of Oregon, incurred by a utility in complying with ORS 774.120.

(2) Reimbursement of a utility by the Citizens' Utility Board shall be made within 60 days of the date the utility submits to the Citizens' Utility Board an itemized statement of the costs incurred by the utility. In no event shall such reimbursement exceed the fair market value for the services provided by the utility. [1985 c.1 §11]

774.140 Interference with mailings or contributions prohibited. (1) No utility, nor any of its employees, officers, members of the board of directors, agents, contractors or assignees, shall in any manner interfere with, delay, alter or otherwise discourage the distribution of any material or statement authorized by the provisions of this chapter for inclusion in periodic utility billings, nor in any manner interfere with, hamper, hinder or otherwise infringe upon a utility consumer's right to contribute to Citizens' Utility Board, nor in any manner hamper, hinder, harass, penalize or retaliate against any utility consumer because of the consumer's contribution to, or participation in, any activities of the Citizens' Utility Board.

(2) No utility may change its mailing, accounting, or billing procedures if such change will hamper, hinder, or otherwise interfere with the ability of the Citizens' Utility Board to distribute materials or statements authorized by this chapter. [1985 c.1 §12]

774.160 Disposition of complaints. Citizens' Utility Board may submit to the appropriate agency any complaint it receives regarding a utility company. Public agencies shall periodically inform Citizens' Utility Board of any action taken on complaints received pursuant to this section. [1985 c.1 §13]

774.180 Intervening in agency proceedings affecting utility consumers; standing to obtain judicial or administrative review. Notwithstanding any other provision of law:

(1) Whenever the board determines that any agency proceeding may affect the interests of utility consumers, Citizens' Utility Board may intervene as of right as an interested party or otherwise participate in the proceeding.

(2) Citizens' Utility Board shall have standing to obtain judicial or administrative review of any agency action, and may intervene as of right as a party or otherwise participate in any proceeding which involves the review or enforcement of any action by an agency, if the board determines that the action may affect the interests of utility consumers. [1985 c.1 §14]

774.190 Certain laws inapplicable to board; protection from liability. (1) ORS chapters 278, 279, 282, 283, 291, 292, 293, 295 and 297 do not apply to Citizens' Utility Board or to the administration and enforcement of this chapter. An employee of Citizens' Utility Board shall not be considered an "employee" as the term is defined in the public employees' retirement laws. Citizens' Utility Board and its employees shall be exempt from the provisions of the State Personnel Relations Law.

(2) ORS 183.310 to 183.550 does not apply to determinations and actions by the board.

(3) The board, and any of the officers, employees, agents or members of Citizens' Utility Board shall be provided the same protections from liability as the board, officers, employees, agents, or members of any nonprofit corporation of the State of Oregon. [1985 c.1 §15]

774.210 Remedies; attorney fees. (1) Any utility, and any of its employees, officers, members of the board of directors, agents, contractors or assignees which does, or causes or permits to be done, any matter, act or other thing prohibited by this chapter, or omits to do any act, matter or other thing required to be done by this chapter, is liable for any injury to Citizens' Utility Board and to any other person in the amount of damages sustained in consequence of such violation, together with reasonable attorney fees, to be fixed by the court in every case of recovery. Such attorney fees shall be taxed and collected as part of the costs in the case.

(2) Citizens' Utility Board may obtain equitable relief, without bond, to enjoin any violation of this chapter.

(3) Any recovery or enforcement obtained under this section shall be in addition to any other recovery or enforcement under this section or under any statute or common law. Any recovery under this section shall be in addition to recovery by the state of the penalty or fine prescribed for such violation by this chapter. The rights and remedies provided by this chapter shall be in addition to all other rights and remedies available under law. [1985 c.1 §16]

774.250 Severability. If any section, portion, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional the remaining sections, portions, clauses and phrases shall not be affected but shall remain in full force or effect, and to this end the provisions of this chapter are severable. [1985 c.1 §18]

774.990 Penalty. Willful violation of ORS 774.120 (1) or (5) or 774.140 is a Class A misdemeanor. [1985 c.1 §17]

CHAPTER 775

[Reserved for expansion]